IN THE IOWA DISTRICT COURT FOR CEDAR COUNTY

MONICA ROUSE, Plaintiff, vs. DURANT COMMUNITY SCHOOL DISTRICT, et al, Defendants.	)	Case No. LACV 934533 **RULING ON APPLICATION FOR RULE TO SHOW CAUSE FOR CONTEMPT**

This matter was heard on August 27, 2012, with the plaintiff, Monica Rouse, appearing by and through her attorneys, Cathy Cartee and Meghan Corbin. Durant Community School District, Board of Directors of the Durant Community School District, and Dick Stoltenberg, Brian Fargo, Sheila Compton, Steve Ralfs, and Joel Meincke, as individuals, defendants, were represented by their attorney Rand Wonio.

FINDING OF FACTS

On Sept. 17, 2009, Monica Rouse was escorted from Durant High School and placed on administrative leave from her position as the school principal. The Durant Community School District Board ("Board") voted to consider terminating her employment contract on Oct. 6, 2009. Rouse filed for an administrative review to determine if "just cause" existed for her termination. On Nov. 30, 2009, an administrative law judge began an eight-day hearing that would ultimately conclude that the board did not have "just cause" based on the record. The ALJ recommended that the Board rescind its termination proceedings and reinstate Rouse. The Board did not

do so. Instead it opted to terminate her on March 29, 2010, based on a de novo review of the hearing record. She appealed that decision to the Cedar County District Court.

After its review of the record, the court issued its ruling on March 11, 2011. The court found no evidence of just cause stemming from any of the reasons that the Board cited in its decision to terminate Ms. Rouse. The court ordered that Ms. Rouse "be restored to her status as Principal of Durant High School." (Ruling on Pet. For Judicial Review 41, March 11, 2011). The defendants filed an appeal of the ruling on March 14, 2011, and moved to stay the order on March 17, 2011. The District issued a press release dated March 22, 2011, indicating that it was appealing the ruling and seeking a stay of the order. The District superintendent and its counsel refused to allow Rouse to enter the building the next morning.

The district court denied the Board's motion for a stay on May 6, 2011; the Board appealed her decision on the stay to the Supreme Court and was denied a writ of certiorari, but the Court permitted the Board to post a supersedeas bond while her ruling awaited appeal. The district's court's decision was affirmed by the Court of Appeals on January 19, 2012, and the Supreme Court denied further review on April 9, 2012, thereby confirming the validity of the March 11, 2011 order which restored the plaintiff to principal of Durant High School.

When Principal Rouse returned to her job on April 23, 2012, she was informed that she would be working alongside a second principal at Durant High School. She was sent to a makeshift office in the board room on the opposite side of the school building and assigned by Superintendent Duane Bennett to a couple of research tasks rather than to her former duties of overseeing the entire school. In fact, the bulk of her job

responsibilities had been assigned to Tony Neumann, the principal appointed in her absence. On April 27, 2012, Ms. Rouse applied for a rule to show cause why the School District and individual Board members should not be held in contempt of the court's order.

ANALYSIS

This is a case of first impression in Iowa. The conduct underlying this contempt action occurs at the intersection of two different rules. Thus, the court must synthesize the undeniable authority of a court to enforce its own orders with courts' general unwillingness to meddle in the internal affairs of an independent institution like a school district. In answering the question, the court must determine what the School Board's intent was in its retention of a second principal and its assignment of very few duties to Ms. Rouse upon her court-ordered return as principal.

Contempt may only be found if proof that the court order was violated is established beyond a reasonable doubt. *Palmer College of Chiropractic v. Iowa District Court for Scott County*, 412 N.W.2d 617, 619 (Iowa 1987). The violation must be willful – it must have been "intentional and deliberate with a bad or evil purpose, or wanton and in disregard of the rights of others, or contrary to a known duty, or unauthorized, coupled with an unconcern whether the contemnor had the right or not." *Id.* at 621.

Therefore, the first determination must be whether the Board, through its directions to Superintendent Bennett, actually violated the court's order. To provide a basis for a contempt finding, the order must be "clear, definite and unambiguous." *Id.* at 620. Contempt is quasi-criminal in nature and thus, it can only be found where the court's directive is clear, much like criminal law's insistence on the clarity of statutory

definitions of crime. *Lynch v. Uhlenhopp*, 78 N.W.2d 491, 494 (Iowa 1956). The test for vagueness is whether or not a person of common intelligence would need to resort to conjecture to determine what conduct is compelled by the injunction. *See Matlock v. Weets*, 531 N.W.2d 118, 123 (Iowa 1995).

The court ordered that Ms. Rouse "be restored to her status as Principal of Durant High School" (Ruling on Pet. For Judicial Review 41). This is not an ambiguous or indefinite directive. It does not require an average person to surmise its meaning. It is a mandatory injunction. (Ruling on Mot. To Stay 3, May 6, 2011). It clearly states what the District was ordered to do, i.e., give Principal Rouse back her job as principal of Durant's only secondary school. The problem arises because the parties dispute what exactly the court meant by "status as Principal." Although the established rule is that an order must be specific to provide a basis for contempt, the Iowa Supreme Court has "refused to apply it when the party's actions were calculated to subvert the court's instructions." *Palmer College*, 412 N.W.2d at 620. Thus, the court should set aside the specificity rule to prevent parties from avoiding compliance with its orders based on wooden or technical readings of them. *Id.*

The Supreme Court has further articulated:

> In deciding whether a defendant is in contempt of court for violating an injunctive order, we take into consideration the spirit as well as the letter of the injunction to determine if its intent has been honestly and fairly obeyed. No artful attempt to evade it will be allowed to succeed, if the act in fact constitutes a substantial violation of the injunction.

Orkin Exterminating Co., Inc. (Arwell Division) v. Burnett, 160 N.W.2d 427, 431 (Iowa 1968). In *Orkin*, the Supreme Court divined "a conscious effort to evade the effect of the injunction" by the defendant who, while enjoined from competing in a certain geographic

area, traded customer lists with another businessman and then continued to service the same customers under the other businessman's trade name. *Id.* at 431-32. *Palmer College* elucidates this principle further: there, the chiropractic school was ordered to grant a plaintiff a degree and issued him a diploma indicating on its face that it had been awarded pursuant to the court's decree. 412 N.W.2d at 621. The Supreme Court was unimpressed with the defendant college's explanation that it had merely added the language to comply with accreditation standards when the evidence showed that its leaders had deliberated extensively about the diploma's wording. *Id.* Nothing in the decree prohibited the defendant college from adding language, but the court found that a "simple common sense" understanding of its order to grant a degree would be to issue one like every other graduate's. *Id.*

Turning to the law governing school district employment decisions, a good faith exercise of discretion will not be disturbed. *Pleasant Valley Education Association v. Pleasant Valley Community School District*, 449 N.W.2d 894, 896 (Iowa Ct. App. 1989). However, the court must decide whether school authorities have overstepped the bounds of their discretion. *Gere v. Council Bluffs Community School District*, 334 N.W.2d 307, 311 (Iowa 1983). Thus, the question is whether or not the Board's actions were in good faith when it retained two principals and directed Superintendent Bennett to assign Ms. Rouse substantially fewer duties than she once discharged. This is a question of intent. The Court does not dispute the fact that under Iowa Code Section 279.23 the Board may hire more than one principal. The wisdom of hiring two principals for a high school that has a student body of approximately 250 students will be left to those who elect the school board to decide. However, the Board cannot hire an

additional principal to avoid, defeat, or undermine the court order that requires the Board to restore Principal Rouse to her original position with the same duties, rights, and privileges that she enjoyed prior to her termination.

A substantial amount of evidence was introduced at the hearing on Aug. 27, 2012. The record shows that Ms. Rouse is not in charge of the day-to-day activities of the high school and most of those responsibilities have been transferred to her co-principal, Tony Neumann. She does not hire, supervise or evaluate teachers, which she did before her dismissal. She was told not to interact with students, an essential function of any principal. She was prohibited from accessing student academic or disciplinary records. Ms. Rouse previously conducted staff meetings, staff development, and curriculum development. Although she was assigned two research projects last spring, she was not invited to regular meetings between co-principal Neumann and the superintendent. She was not invited to attend school board meetings. Her name did not appear in a number of school publications.

Before her dismissal, Ms. Rouse had keys to the entire facility. Upon her return, she was not given keys to the entire facility. She was not invited to attend the 2012 graduation ceremony until after working hours the Friday evening before the Saturday graduation when her fellow principal sent a message to her work email address. She did not receive it until the following Monday. She testified that she was not placed in charge of extracurricular activities or co-curricular activities, two areas of responsibility that even the District indicated she would be assigned upon return. Before her dismissal, her office was located within the high school administration's office area. Upon her return, she was given a makeshift office in a board room. After a couple weeks, she was placed

in a reconfigured computer lab, but it was outside the administration suite. The computer lab had a security camera, which was turned on, showing Principal Rouse at her desk. The security camera was not turned off until Ms. Rouse requested the same. It was not removed from the makeshift office until she asked that it be removed. Despite the fact that her contract calls for a district-provided cell phone, she was never provided with one.

The record is replete with such examples, which, taken as a whole, reveal the wrongful intent of the District. They add up to "artful attempts to evade" the court order. By merely restoring Ms. Rouse's title and pay, the District believes it has discharged its duties under the order. But its actions belie a willful attempt to frustrate her ability to work as a principal. Common sense would dictate that principals oversee schools, teachers and students, and must be afforded the necessary authority and resources to do so. Defendants rely on the court's statement on Page 1 of the Ruling and Petition for Judicial Review which stated certain specific duties which she performed as principal prior to her termination. However, in reading the sentence, the court stated she was "in charge of several duties, including curriculum, staff development, alternative programming, special education programming, extracurricular activities, and co-curricular activities." Common sense interprets this statement as examples of her many duties that she performed as principal as opposed to a statement of limitation. The District's reliance on *Gere v. Council Bluffs Community School District,* 334 N.W.2d 307 (Iowa 1983) is misplaced in this argument. That case stands for the proposition that a school district has discretion to give *additional* duties to a principal. *Gere,* 334 N.W.2d at 310-11. At issue in this contempt proceeding is whether or not the District restored the

original duties and status of a principal to Rouse. The distinction is further clarified by Ms. Rouse's original contract with the District, which states that she "agrees to well and faithfully perform the duties of High School Principal and such other duties connected to the District as may be assigned." (Pl.'s Ex. 1.) Rouse was hired to discharge the duties of a principal *and* to discharge other duties as assigned. There is a baseline of principal duties to which the district may add. *Id.* But nowhere does *Gere* hold that a district may subtract from those duties. In fact, the court in *Gere* stated that a district may not redefine a principal's duties to one of a custodian or bus driver. *Id.* at 310. Thus, the District may not re-interpret Ms. Rouse's contract to turn her into another type of employee such as a research assistant to the superintendent. By denying her the ability to hire and supervise staff, interact with students, access their records, move freely in and out of the building, and by many other slights, the District has evaded a court order.

As mentioned, there is no authority in Iowa for finding contempt arising from a mandatory injunction to reinstate an employee. There is a dearth of reported authority on that issue elsewhere, as well. However, in a case from the state of New York, the court faced an almost identical fact pattern. After New York City's jail warden was unceremoniously dismissed and replaced with another, he sought certiorari review and won a court order granting him reinstatement. *People ex rel. Fallon v. Wright*, 22 A.D. 165, 166 (N.Y. App. Div. 1897). The commissioner who had sacked the warden responded by dividing the duties of warden to two shifts and appointing the dismissed warden to the overnight shift, which involved little more than night watchmen duties and none of the administrative responsibilities of running the city's jail. *Id.* At issue was the court's order, which had instructed the commissioner to reinstate the warden and "to

restore to him the possession of the said office or position, and the rights, powers, privileges, and emoluments thereof." *Id.* The court found that the commissioner's actions were an attempt to retain his chosen warden in defiance of the order and affirmed the lower court's finding of contempt. *Id.* at 169.

Finally, the Defendants point out that they made their decision with advice of counsel and argue that the court may consider that in its decision here. That is not a correct statement of the law. In fact, that the contemnor was acting with advice of counsel is "no defense" to a contempt charge and can only be considered in mitigating the penalty levied. *Palmer College*, 412 N.W.2d at 621.

Section 665.4, Iowa Code, 2011, sets out the punishment courts may impose after a finding of contempt. In Subparagraph 2 of the Section, the district court may impose a fine of not exceeding $500 or imprisonment in a county jail not exceeding six months or by both fine and imprisonment. Principal Rouse was terminated on September 17, 2009. She has gone through an administrative appeal, district court appeal, appeal to the Iowa Court of Appeals, and a request for further review to the Iowa Supreme Court, which was denied. She finally attempted to resume her duties as principal of Durant High School on April 23, 2012. She has been thwarted in her efforts to resume her duties with all rights, privileges, and authority that she had prior to her termination. The Court finds the actions of the individual school board members as carried out by the school superintendent are willful, contumacious, and designed to avoid the order of this court issued in its ruling of March 11, 2011. Ms. Rouse deserves to have this matter ended and to continue her employment to serve the students and teachers, as well as the public, in her role as principal.

RULING

The Court finds that Dick Stoltenberg, Brian Fargo, Sheila Compton, Steve Ralfs, and Joe Meincke are in contempt of court for failure to abide by the ruling of this court restoring Principal Rouse to her position as principal of Durant High School, which ruling was entered on March 11, 2011. They acted in their capacity as members of the Board of Directors of the Durant Community School District in directing Superintendant Bennett to avoid restoring Principal Rouse to her original position as principal of Durant High School with all the rights, privileges, and duties that she enjoyed prior to her termination. They instead gave most of the substantive duties and privileges to Principal Neumann, who they hired as permanent principal, despite the court ruling ordering that she be restored to her status as principal.

Given the actions of the school board members, the Court finds that they should be individually fined the sum of $500 and shall serve 30 days in the Cedar County Jail.

The School Board members may purge themselves of this contempt by restoring to Principal Rouse all of her duties , privileges, authority, and rights that she enjoyed prior to her termination as principal of Durant High School. If the Board wishes to have these duties shared with Principal Neumann, they may do so, but they may not prevent Principal Rouse from assuming those duties. They shall also place her in an office with the administrative staff and allow her to access the administrative staff as she did prior to her termination. The Court declines to specify every duty, right, responsibility, or privilege that Principal Rouse had prior to her termination, but indicates that failure to abide by this order will be viewed as failure to purge.

Plaintiff has asked for attorney fees as the result of this contempt action. The affidavits submitted to the Court indicate that the attorney fees for this contempt action total $21,863.00. The Court finds that reasonable attorney fees for this contempt action on behalf of the plaintiff are in the amount of $12,000.00. The Court orders all defendants, jointly and severally, including the school district, to pay the above attorney fees and judgment is entered for the same. Court costs are assessed against the defendants.

Dated this 26th day of September, 2012.

MARK J. SMITH
Judge of the Seventh Judicial
District of Iowa

IN THE IOWA DISTRICT COURT FOR CEDAR COUNTY

MONICA ROUSE, Plaintiff, v. DURANT COMMUNITY SCHOOL DISTRICT; THE BOARD OF DIRECTORS OF THE DURANT COMMUNITY SCHOOL DISTRICT; BRIAN FARGO as an individual; JOEL MEINCKE as an individual; BARB REASNER as an individual; RUSS PAUSTIAN as an individual, RON ALPEN as an individual; DUANE BENNETT as an individual; ANTHONY NEUMANN as an individual; and REBECCA STINEMAN as an individual, Defendants.	)	NO. ORIGINAL NOTICE

TO THE ABOVE-NAMED DEFENDANTS:

You are hereby notified that there is now on file in the office of the Clerk of the above Court, a Petition at Law in the above-entitled action a copy of which Petition is attached hereto. The Plaintiff's attorney is Catherine Z. Cartee, whose address is 125 Kirkwood Boulevard, Davenport, Iowa 52803.

You are further notified that unless, within 20 days after service of this original notice upon you, you serve, and within a reasonable time thereafter, file a motion or answer in the Iowa District Court in and for Cedar County, at the County Courthouse in Tipton, Iowa, judgment by default will be rendered against you for the relief demanded in the petition.

Julie Carlin
Clerk of the Above Court,
Cedar County, Iowa,

BY: _____

NOTE: The attorney who is expected to represent the Defendants should be promptly advised by Defendants of service of this notice.

NOTE: If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at 326-8607. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

IN THE IOWA DISTRICT COURT FOR CEDAR COUNTY

MONICA ROUSE, Plaintiff, v. DURANT COMMUNITY SCHOOL DISTRICT; THE BOARD OF DIRECTORS OF THE DURANT COMMUNITY SCHOOL DISTRICT; BRIAN FARGO as an individual; JOEL MEINCKE as an individual; BARB REASNER as an individual; RUSS PAUSTIAN as an individual, RON ALPEN as an individual; DUANE BENNETT as an individual; ANTHONY NEUMANN as an individual; and REBECCA STINEMAN as an individual, Defendants.	)	NO. PETITION AT LAW

COMES NOW the Plaintiff, Plaintiff Rouse, by and through her attorneys, Catherine Z. Cartee and Mark R. Fowler, and for her cause of action against Defendants the Durant Community School District, the Board of Directors of the Durant Community School District, Brian Fargo, Joel Meincke, Barb Reasner, Russ Paustian, Ron Alpen, Duane Bennett, Anthony Neumann, and Rebecca Stineman; and in support thereof, states to the Court as follows:

GENERAL ALLEGATIONS

1. Plaintiff, Plaintiff Rouse, has at all times hereto been a resident of Durant, Cedar County, Iowa.

2. Defendant, Durant Community School District, has at all times hereto been a school district operating in the community of Durant, Iowa, that is predominately located in Cedar County, Iowa.

3. Defendant, Brian Fargo, has at all times hereto been a member of the School Board for the Durant Community School District that is predominately located in Cedar County, Iowa; and also resides in Cedar County, Iowa.

4. Defendant, Joel Meincke, has at all times hereto been a member of the School Board for the Durant Community School District that is predominately located in Cedar County, Iowa; and also resides in Cedar County, Iowa.

5. Defendant, Barb Reasner, has at all times hereto been a member of the School Board for the Durant Community School District that is predominately located in Cedar County, Iowa; and also resides in Cedar County, Iowa.

6. Defendant, Russ Paustian, has at all times hereto been a member of the School Board for the Durant Community School District that is predominately located in Cedar County, Iowa; and also resides in Cedar County, Iowa.

7. Defendant, Ron Alpen, has at all times hereto been a member of the School Board for the Durant Community School District that is predominately located in Cedar County, Iowa; and also resides in Cedar County, Iowa.

8. Defendant, Duane Bennett, has at all times hereto been Superintendent of the Durant Community School District that is predominately located in Cedar County, Iowa.

9. Defendant, Anthony Neumann, has at all times hereto been Principal or Co-Principal of Durant High School that is predominately located in Cedar County, Iowa; and also resides in Cedar County, Iowa.

10. Defendant, Rebecca Stineman, has at all times hereto been Principal of Durant Middle School that is predominately located in Cedar County, Iowa.

11. Plaintiff was the Principal of Durant High School from early August of 1999 until her termination on March 29, 2010.

12. On September 1, 2009, then-Superintendent Duane Bark called Plaintiff into his office to question her regarding issues with student transcripts.

13. On or about September 13, and again on September 14, 2009, then-Superintendent Bark called Plaintiff into his office to question her about another student and his transcripts.

14. At no time during any of these meetings was Plaintiff allowed the opportunity to review any documents.

15. On or about September 13, 2009 then-Superintendent Bark terminated Plaintiff's access to computer records of any student at Durant High School.

16. On or about September 17, 2009 then-Superintendent Bark walked Plaintiff off school grounds and put her on paid administrative leave.

17. On October 6, 2009 the Durant Community School District Board of Directors notified Plaintiff that they had voted to consider termination of her contract.

18. Pursuant to her statutory right as provided by Iowa Code § 279.24, Plaintiff filed for Judicial Review of the School Board's Decision.

19. A hearing was held before Administrative Law Judge Larry Bartlett (hereinafter "ALJ Bartlett"), Professor of Educational Administration College of Education, University of Iowa. Said hearing began November 30, 2009, went for one week and was continued until February 1, 2010, and was completed February 5, 2010.

20. After the conclusion of the hearing ALJ Bartlett provided an 86 page ruling wherein he stated, "the undersigned ALJ hereby finds that "just cause" for the termination of Monica Rouse is not justified on the hearing magistrated."

21. As per Iowa Code § 279.24, the Board requested review of the ALJ's ruling.

22. On or about March 24, 2010, per Iowa Code § 279.24, a private hearing was held wherein the Board heard oral arguments from both sides regarding whether the Board should

vote to continue or discontinue Plaintiff's contract. Said oral arguments were limited by the Board to 30 minutes from each side.

23. On March 29, 2010, the Board in an open session voted to terminate Monica Rouse's contract as Principal of Durant High School.

24. Plaintiff pursued her statutory rights under Iowa Code § 279.24 in appealing the decision of the School Board to terminate her contract.

25. Plaintiff requested that the District Court for the Seventh Judicial District of Iowa, Cedar County, review the decision by the Board concerning the termination of her contract by filing a Petition for Judicial Review on or about April 20, 2010.

26. The Court went on to vacate the decision of the school board, and ordered that Plaintiff be "restored to her status as principal of Durant High School"

27. The Defendants filed an appeal of the District Court's Ruling to the Iowa Supreme Court. The Supreme Court transferred said appeal to the Iowa Court of Appeals for decision.

28. On or about April 9, 2012, the Supreme Court denied Defendants' request for further review of the Court of Appeals decision affirming the District Court ruling restoring Plaintiff to her position as Principal of Durant High School.

29. On or about February 29, 2012, the Defendants in a closed session meeting decided to file an ethical complaint with the Iowa Board of Educational Examiners regarding Plaintiff.

30. The Plaintiff's husband, Timothy Rouse, was and has been an Industrial Technologies Educator as well as the head coordinator for Career and Technical Education at Durant High School.

31. The Plaintiff's daughter, Elizabeth Rouse, is a student at Durant Middle School with an Individual Education Plan ("IEP") due to the fact that she is legally blind.

32. The Plaintiff's son, Alexander Rouse, is a student at Durant High School.

COUNT I
RETALIATION & HOSTILE WORK ENVIRONMENT

33. Plaintiff restates and re-alleges paragraphs 1-32 as though fully and completely set forth herein.

34. That upon information and belief, after their Application for Further Review was denied, Defendants asked each member of the Durant High School staff to present themselves at Superintendent Bennett's office, with the exception of Plaintiff's husband, to complete a survey regarding Plaintiff's professionalism.

35. In 2010-2011, Plaintiff signed up for volunteering at her children's school athletic events, but was told she could not volunteer.

36. Plaintiff was informed that she risked being expelled from school grounds if she failed to get a visitor's badge, even to exchange keys with her husband.

37. Jenny Orth is a special education teacher at Durant Middle School and supervises the legal compliance for Plaintiff's daughter's IEP as her case management facilitator.

38. Defendant Rebecca Stineman is Jenny Orth's direct supervisor, and responsible for all IEPs at Durant Middle School.

39. Ms. Orth was a witness for then-Superintendent Bark and Defendants Durant Community School District during the Plaintiff's § 279.24 administrative hearing. In 2011, Jenny Orth filed a police report against Plaintiff. No charges were ever filed against Plaintiff.

40. While supervising Plaintiff's daughter's IEP, Ms. Orth also wrote a letter to the editor of the Durant Advocate newspaper chastising Plaintiff.

41. Following publication of the letter to the editor, Plaintiff contacted Durant Middle School Principal Rebecca Stineman and requested Ms. Orth's removal as supervisor for her daughter's IEP. Principal Stineman refused Plaintiff's request.

42. Plaintiff's request should have been granted.

43. Plaintiff approached Durant Middle School in the summer of 2011 regarding accompanying her daughter as a human guide on her daughter's June 2012 class trip to Washington, D.C., due to her daughter's blindness.

44. Plaintiff was specifically excluded from acting as her daughter's human guide on the trip.

45. Plaintiff's husband has been isolated at Durant High School as a result of Plaintiff's decision to pursue her statutory rights under Iowa Code § 279.24.

46. Plaintiff's husband has been ostracized by teachers and staff, excluded from career development, removed from committees he served on for numerous years, and denied opportunities to earn extra money through the Durant Community School District.

47. Plaintiff's husband has brought numerous safety issues regarding the Industrial Tech Center, his teaching facility at Durant High School, to Superintendent Bennett's attention and has been ignored.

48. Plaintiff returned to work on approximately April 23, 2012.

49. Since returning to work, Plaintiff has been directed not to interact with students or staff in the Durant Community School District.

50. Plaintiff was given a key to only one door, whereas before being walked off of school grounds on September 17, 2009, she had keys to almost every door in the Durant Community School complex.

51. Plaintiff's duties have been severely restricted and limited.

52. Plaintiff has been denied an office with all other administrators in the Administrative wing of the Durant Community School complex.

53. Plaintiff has not been included in several meetings that the Principal is normally included in.

54. Plaintiff has not been informed of meetings that the Principal is normally informed of.

55. In the Superintendent's boardroom where Plaintiff initially worked, the glassed-in panel next to the door was completely covered over with white butcher paper, a photograph of which is attached hereto and incorporated herein as Plaintiff's Exhibit "1".

56. Plaintiff was provided a laptop computer with no access to Durant Community School District systems or files, a photograph of which is attached hereto and incorporated herein as Plaintiff's Exhibit "2".

57. Plaintiff was instructed to use the restroom immediately outside the boardroom where she was initially housed, and to obtain her coffee from the superintendent staff's break room.

58. Initially, Plaintiff received only one key and security fob on or about the 24th or 25th of April, 2012. The single key provided access to the back door of the board room, and the security fob is programmed only for access to the main superintendent's door from the parking area.

59. Even the teachers at Durant have access to the school and administrative doors.

60. On or about May 4, 2012, Superintendent Bennett moved Plaintiff to the former computer lab in the Durant Elementary School. Superintendent Bennett informed Plaintiff that this room was to be her office.

61. Upon information and belief, the former computer lab in the Durant Elementary School now occupied by Plaintiff as an office is equipped with video cameras that record the occupants therein.

62. As of the filing date of the instant Petition, the cameras are still installed in the former computer lab in the Durant Elementary School now occupied by Plaintiff as an office, and have allegedly been disabled.

63. Defendants argued in their Petition for Writ of Certiorari filed May 24, 2011 that restoring Plaintiff as Principal of Durant High School would conflict with their subsequent contract with her replacement.

COUNT II
INTERFERENCE WITH CONTRACT

64. Plaintiff restates and re-alleges paragraphs 1-63 as though fully and completely set forth herein.

65. Prior to Plaintiff returning to work, Defendants informed her that she would be a "Co-Principal" with Anthony Neumann, whom they hired after the District Court entered its March 11, 2011 Ruling on Petition for Judicial Review. The District Court ordered Plaintiff restored to her position as Principal of Durant High School, not assigned to share duties with a principal hired after the Ruling restored her to that position.

66. Defendants assert their legal right to assign Plaintiff duties and justify her side – by-side existence with Co-Principal Neumann based on Iowa Code Chapter 20, Public Employee Relations. Defendants specifically allege that as a public employer, Defendants have the right to direct the work of their public employees. Iowa Code § 20.7(1) (2011).

67. Pursuant to Iowa Code § 20.4, Plaintiff is specifically excluded from the provisions of Chapter 20, as she is a school principal and therefore a "supervisory employee"

under the express language of the statute. Iowa Code § 20.4(2) (2011). Plaintiff's duties and the scope of her contract are therefore governed entirely by her contract.

68. Plaintiff has been isolated from the teachers, staff, and students in the Durant Community School District.

69. Plaintiff is not in charge of curriculum, staff development, special education programming, teacher evaluations, student discipline, extra-curricular activities, and co-curricular activities as she was prior to being walked off Durant Community School District grounds on or about September 17, 2009.

70. Plaintiff had unfettered access to Durant High School prior to being walked off Durant school grounds on or about September 17, 2009.

71. Plaintiff has not been restored to unfettered access to Durant High School She is now confined to one area, next to the Superintendent's office and apart from the Administrative wing where the other principals are officed.

72. Prior to being walked off Durant school grounds on or about September 17, 2009, Plaintiff had unfettered access to the JMC, the computer-based student management system that contains all information regarding Durant students.

73. Plaintiff currently has no access to the JMC. Upon information and belief, Plaintiff's access to the JMC has been cut off since September 13, 2009.

74. Plaintiff has been denied access to all materials she created and relied upon as a principal prior to her termination.

75. On or about April 24, 2012, Superintendent Bennett confirmed to Plaintiff the existence of the survey, in which he asked K-12 staff to give their opinion as to Plaintiff's professionalism.

76. Superintendent Bennett said the survey was for two purposes, the first being for his personal information, and that he would not discuss the second purpose with Plaintiff.

77. To date, no announcement has been made to the Durant School District staff that Plaintiff is restored as Principal of Durant High School.

78. That Defendants Durant Community School Board policy states that Durant High School shall have one (1) principal.

79. That Defendants have interfered with Plaintiff's contract by hiring another Principal in violation of their own policy and the March 11, 2011 Ruling from this court.

COUNT III
ABUSE OF PROCESS

80. Plaintiff restates and re-alleges paragraphs 1-79 as though fully and completely set forth herein.

81. Defendants resolved to file an ethical complaint against Plaintiff with the Iowa Board of Educational Examiners approximately 895 days after then-Superintendent of the Durant Community School District Duane Bark walked her out of Durant High School on September 17, 2009, and after she successfully appealed her termination by the School Board to the District Court and Court of Appeals.

82. Some of the claims made to the Board of Educational Examiners were untimely, and none of the claims were made by anyone who had any personal knowledge of any alleged wrong doing by Plaintiff.

83. Defendants further tried to undermine Plaintiff's authority and reputation with her co-workers and subordinates by calling teachers into the Superintendent's office and asking them to detail any potential alleged unethical conduct by Plaintiff.

84. Had Plaintiff been unsuccessful in her Petition for Judicial Review of the School Board's Findings of Fact and Conclusions of Law, Defendants would not have filed a complaint against her with the Board of Educational Examiners.

85. Said action will obviously have a chilling effect on any other administrator or employee who dares to question a school board's decision to terminate or pursue their statutory rights provided by law.

86. The basis of the complaint filed by Defendants with the Board of Educational Examiners is identical to the issues that were litigated extensively in front of the ALJ and the District Court, and affirmed by the Court of Appeals, and the Supreme Court.

87. It is without question that the Defendants were well aware of the ALJ's proposed decision, the District Court's decision, and the Iowa Court of Appeals finding that the Durant School Board's Findings of Fact and Conclusions of Law were in error; making Defendants' complaint before Board of Educational Examiners baseless and unsupported by law or fact.

WHEREFORE, the Plaintiff requests a jury trial and prays that this court enter judgment against Defendants for monetary damages for lost wages, bonuses and benefits; damage to Plaintiff's career; compensatory damages; liquidated damages; punitive damages; attorney fees; costs of litigation; and for such other and further relief as this court deems equitable and just in this matter.

Respectfully Submitted:

By: Catherine Cartee

Catherine Z. Cartee, AT0001488
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Ph: (563) 359-3591
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ATTORNEYS FOR PLAINTIFF

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause by depositing a copy thereof in the U.S. Mail, postage prepaid, in envelopes addressed to each of the attorneys of record herein at their respective addresses disclosed on the pleadings as follows:

Cameron A. Davidson
Rand S. Wonio
220 North Main St., Suite 600
Davenport, Iowa 52801-1987

On 5/10, 2012

By _____

EXHIBIT
tabbies
1

EXHIBIT

2

IN THE IOWA DISTRICT COURT FOR CEDAR COUNTY

MONICA ROUSE, Plaintiff, v. DURANT COMMUNITY SCHOOL DISTRICT; THE BOARD OF DIRECTORS OF THE DURANT COMMUNITY SCHOOL DISTRICT; BRIAN FARGO as an individual; JOEL MEINCKE as an individual; BARB REASNER as an individual; RUSS PAUSTIAN as an individual, RON ALPEN as an individual; DUANE BENNETT as an individual; ANTHONY NEUMANN as an individual; and REBECCA STINEMAN as an individual, Defendants.	)	NO. JURY DEMAND

COMES NOW the above-named Plaintiff, by their undersigned attorney, Catherine Z. Cartee of Cartee Law Firm, P.C., and makes Demand for a Jury Trial in the above-captioned cause of action.

Respectfully Submitted:

By: Catherine Cartee

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Cameron A. Davidson
Rand S. Wonio
220 North Main St., Suite 600
Davenport, Iowa 52801-1987

On 5-10-12, 2012

By _____